

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Monday, August 6, 2012 at
6:00 P.M.**

Council President Arthur S. Weber, Jr., Presiding

Vice President Bruce J. Long, Arrives at 6:04 pm

Councillor Richard Cambra

Councillor Christopher T. Semonelli

Councillor Edward J. Silveira, Jr.

Councillor Antone C. Viveiros

Councillor Barbara A. VonVillas, Members Present

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

EXECUTIVE SESSION-6:00 P.M.

1. Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (5) Land Acquisition (Wyatt Road) and (5) Land Acquisition (West Main Road)

On motion of Councillor Semonelli, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 6:01 pm.

On motion of Vice President Long, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 7:00 pm.

On motion of Vice President Long, duly seconded, it was voted unanimously to seal the executive session minutes pursuant to Section 42-46-7. RIGL.

PUBLIC FORUM SESSION

2. Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

Dennis Turano, 182 Tuckerman Avenue, requested clarification concerning funding for the proposed Middletown Fire Department bond.

Finance Director Lynne Dible, responding to Mr. Turano explained that a resolution was passed allocating use of PPV Special Revenue Funds.

Dennis Turano, 182 Tuckerman Avenue, addressed the Council noting concern for RI unemployment rates, the loss of residents in the town and the importance of economic development.

PRESENTATION

3. Memorandum of Town Administrator, re: Pins of Service Third Quarter 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

There were no recipients present to receive their pins.

On motion of Vice President Long, duly seconded, it was voted unanimously to sit as the Board of License Commission.

Councillor Silveira disqualified himself from acting on the following

three items of business, #4, #5 and #6, due to a possible conflict of interest.

Councillor Semonelli disqualified himself from acting on the following items of business, #4 and #5, due to a possible conflict of interest.

Town Solicitor Michael W. Miller recused himself from acting on the following items of business, #4 and #5, due to a possible conflict of interest.

BOARD OF LICENSE COMMISSION

4. Show Cause Hearing (Licensee Notified)

Show Cause Hearing for Lacey, Inc., dba Easton's Point Pub and Restaurant, holder of a Retailer's Class BV Alcoholic Beverage License for premises located at 116 Aquidneck Avenue, Middletown, relative to alleged violations of Rhode Island General Laws, Town of Middletown Ordinances and Liquor Control Regulations, all

concerning the consumption of alcohol after legal closing hour.

Show cause hearing was declared open.

Attorney Christopher Gontarz represented the Police Department, Assistant Town Solicitor J. Russell Jackson was present to advise the Board and Attorney Jeremiah C. Lynch, III represented Lacey, Inc..

The stenographic transcript of said hearing is incorporated herein by reference as part of the official minutes of said meeting for the purpose of preserving an accurate record of testimony given.

Show cause hearing was declared closed.

On motion of Vice President Long, duly seconded, it was voted

unanimously that the licensee's admission is freely and voluntarily given and that the licensee did commit the violation as set forth in the complaint and to impose a fine in the amount of \$750.00.

5. Memorandum of Police Chief, re: Potential Alcoholic Beverage License violation by HPK, Inc., dba Tickets, 15 Aquidneck Avenue.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

On motion of Vice President Long, duly seconded, it was voted unanimously to schedule the Show Cause Hearing regarding HPK, Inc. dba Tickets for September 4th, 2012 Meeting of the Board.

6. Application of Andrews At Eastgate dba Gold's Wood Fired Grille & Caffe holder of a Class BL Alcoholic Beverage License, to upgrade its current Retailer's Alcoholic Beverage License for premises located at 21 Valley Road, Middletown, Rhode Island from Class BL (Beer and

Wine) to Class BV (Full Service). (Requires Advertising for Public Hearing)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive and advertise said application for public hearing to be heard on September 4, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene as a Council.

Councillor Semonelli requested that item #15 be heard under the regular meeting of the Council.

CONSENT

7. Approval of Minutes, re: Special Meeting, May 30, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.

8. Approval of Minutes, re: Regular Meeting, June 4, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.

9. Approval of Minutes, re: Regular Meeting, June 18, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.

10. Approval of Minutes, re: Regular Meeting, July 2, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.

11. Approval of Minutes, re: Special Meeting July 23, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.

12. Memorandum of Jan Eckhart, Chairman Middletown Planning Board, with enclosure, re: Advisory recommendation on proposed amendments to the Middletown Zoning Board Ordinance Article 4, and Sections 602.B and 725 regarding ground-mounted solar installation. (Requires advertising for public hearing)

On motion of Vice President Long, duly seconded, it was voted

unanimously to receive said memorandum and advertise zoning amendments for public hearing on September 4, 2012.

13. Communication of J. Clement Cicilline, M.S. President & CEO, Newport County Community Mental Health Center, re: Appreciation for support.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

14. Communication of Susan S. Erstling, Ph.D., LICSW Board Chair, Lucy's Hearth, re: Appreciation for support.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

15. Communication of Ronald Lee Fleming, FAICP, Chairman, Margaret Lloyd, Esquire, Vice Chairman and Mary Tracy, President , Scenic America, Washington, D.C., re: Appreciation for removal of billboards from East Main Road.

Councillor Semonelli reviewed the communication below and noted the Council decision to remove the billboards was wise and positive.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

16. Communication of Tax Assessor, with enclosure, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

17. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

18. Memorandum of Town Administrator, re: School Department FY2013 Budget Adjustment Re-allocation of approved CIP funds for Textbooks.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

19. Resolution of the Council, re: Budget Adjustments- re-allocation approved CIP funds for Textbooks.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

20. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Budget Adjustments as of July 2, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

21. Resolution of the Council, re: FY2013 Budget Adjustments as of July 2, 2012– General Fund.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

22. Resolution of the Council, re: FY 2013 Budget Adjustments as of July 2, 2012- Parks and Recreation Fund Budget.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

23. Memorandum of Accounting Manager, thru Finance Director, re: Tax Collector's report for the period ending June 30, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum and report.

24. Memorandum of Finance Director, thru Town Administrator, re: Sports Banners, School Department.

On motion of Vice President Long, duly seconded, it was voted

unanimously to receive said memorandum.

25. Resolution of the Council, re: Surplus Property – Sports Banners, School Department.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

26. Resolution of the Town of Exeter, re: Requesting support of South County and Westerly Hospitals.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said resolution.

27. Application of Blue Plate Diner, Inc. dba Blue Plate Diner, 665 West Main Road, for a Mechanical Amusement Device License for the

2012-2013 licensing year. (RENEWAL)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.

28. Applications three (3) from the following named persons, firms or corporations for Special Event Permits. (See Attached List)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said Special Event Permits.

Councillor Silveira recused himself from acting on the following two items of business #29 and #30, due to a possible conflict of interest.

LICENSE & PERMITS

29. Application of J & S Enterprises dba Boss Man Burgers, 510 East Main Road, for a Victualling House License for the 2011-2012 licensing year. (NEW)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license contingent on Building Official, Fire Marshal, Public Works and Board of Health approvals.

30. Application of NBT, LLC dba Empire Tea & Coffee, 58 Aquidneck Avenue, Unit A, for a Victualling House License for the 2011-2012 licensing year. (NEW)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license contingent on Building Official, Fire Marshal, Public Works and Board of Health approvals.

31. Application of Newport Vineyards, 909 East Main Road, for a one

day Amusement License on August 11, 2012 – Comedy Show.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license.

32. Application of Newport Vineyards, 909 East Main Road, for a one day Amusement License on August 25, 2012 – Comedy Show.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license.

33. Application of The Newport Hobby House, Ltd. dba Newport Hobby House, 2 Coddington Highway, for a Holiday License for the 2012-2013 licensing year. (NEW)

On motion of Vice President Long, duly seconded, it was voted

unanimously to grant said license.

OTHER COMMUNICATION

34. Communication of Ali Borges, Sponsorship Intern: Middletown Safety Town 2012, re: Request for support of the Safety Town Program.

On motion of Vice President Long, duly seconded, it was voted unanimously to authorize \$200.00 to the Safety Town Program to be appropriated from the Council Presidents Discretionary Fund.

ORDINANCES

35. Memorandum of the Chief of Police, thru Town Administrator, re: Proposed School Zone Ordinance.

Acting Town Administrator Chief Pesare reviewed the memorandum, entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

36. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title VII, Traffic Code, School Zones.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

37. Memorandum of MSAPTF Coordinator, thru Town Administrator, re: Alcohol Training Certification Middletown Ordinance 111.10.

Substance Abuse Coordinator Lori Verderosa addressed the Council noting the amendment to the ordinance specifies length of certification, which matches other similar courses.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

38. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title XI Business Regulations, Chapter 111, Alcoholic Beverages, Section 111.20 Alcoholic Training Certification.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

39. Ordinance of the Town of Middletown (First Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36, Fee Schedule, Sections (29) Fire and rescue reports and (51) Public Safety Private Detail Billing Rates.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

40. Memorandum of Tax Assessor, re: Senior Exemptions for the 2013 Fiscal Year Tax Roll.

Tax Assessor George Durgin addressed the Council reviewing state law requirements and the amendments to the ordinance below.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

41. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 34, Taxes, Section 34.02, Exemption on Residential Property.

On motion of Vice President Long, duly seconded, it was voted unanimously to amend Section (A) from \$30,839 to \$30,999, Section (B) from \$84,846 to \$85,286, Section (C) from \$81,249 to \$81,671, Section (D) from \$77,032 to \$77,432, Section (E) from \$73,191 to \$73,571, Section (F) from \$69,360 to \$69,720, Section (G) from \$65,519 to \$65,860, Section (H) from \$61,678 to \$61,999, Section (I) from \$57,838 to \$58,138, Section (J) from \$54,006 to \$54,287, Section (K) from \$50,166 to \$50,427, Section (L) from \$46,193 to \$46,432, Section (M) from \$42,352 to \$42,572, Section (N) from \$30,520 to \$38,720 and Section (O) from \$34,680 to \$34,860 and adopt said ordinance on its second reading, as amended.

42. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 34, Taxes, Section 34.30, Real Property Exemptions.

On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

43. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 34, Taxes, Section 34.40, Property Exemption Defined.

On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

TOWN ADMINISTRATOR COMMUNICATIONS

44. (Continued from Regular Meeting, July 2, 2012)

Memorandum from Jan Eckhart, Planning Board Chairman, re: Advisory recommendation on proposed amendments to Zoning Ordinance, Article 25A, Wind Turbines. (Planning Board Recommendation attached; Requires Advertising for Public Hearing)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

Councillor Semonelli thanked the Planning Board for their work concerning the wind turbine ordinance. Mr. Semonelli noted the proposed amendments limit the negative effects of turbines and suggests continuing with a public hearing.

Council President Weber noted support to continue with a public hearing concerning the wind turbine.

Town Solicitor Michael W. Miller explained that the Council can decide if the ordinance is consistent with the Comprehensive Community Plan.

Councillor VonVillas noted since the council ignored the survey and actually misrepresented a resident's comments to the extent that the resident published a letter in two media outlets, the council might do better to table it because they may not want it to be an election issue.

Richard Price, 9 J.H. Dwyer Drive, addressed the Council noting the Planning Board is an advisory board and the Council is within its authority to rule if the ordinance is consistent with the Comprehensive Community Plan. Mr. Price explained that he feels the requirements in the ordinance are not misled, but reasonable.

Councillor Silveira noted support for the ordinance explaining his concern for large scale turbines.

Councillor Cambra explained that language must be consistent with the Comprehensive Community Plan. Mr. Cambra noted concern with knowing where turbines are to be placed and suggests tabling the matter until the Town Planner specifically states where turbines can be placed.

On motion of Councillor Cambra, duly seconded, it was voted to postpone this matter until the Town Planner can provide a map or guide of areas where turbines can be placed; Council President Weber, Vice President Long and Councillors Semonelli, Silveira and Viveiros voted NO to said motion; Councillors Cambra and VonVillas voted YES; MOTION FAILED TO PASS.

Vice President Long noted the planning board opinion and suggests the ordinance is in compliance with the Comprehensive Community Plan.

On motion of Vice President Long, duly seconded, it was voted that the proposed wind turbine ordinance as currently drafted is consistent with the Comprehensive Community Plan for the following

reasons:

- 1. The location of wind turbines on field crop farms, horticultural nurseries and livestock farms promotes the location of turbines generally in areas that do not dominate the visual qualities of land from prominent public vantage points.**
- 2. The location of wind turbines on field crop farms, horticultural nurseries and livestock farms allows the use of wind turbines in appropriate locations within the town.**
- 3. The proposed amendment contains performance standards to mitigate the potential negative impacts of wind turbines.**
- 4. The proposed amendment serves to address the aesthetic character of development in the Town.**

Council President Weber, Vice President Long and Councillors Semonelli, Silveira and Viveiros voted YES to said motion; Councillors Cambra and Vonvillas voted NO.

On motion of Vice President Long, duly seconded, it was voted to advertised the proposed Wind Turbine ordinance amendment for public hearing to be heard on September 4, 2012; Council President Weber, Vice President Long and Councillors Semonelli, Silveira and Viveiros voted YES to said motion; Councillors Cambra and VonVillas voted NO.

45. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: RI-LEAP Crest Street.

Public Works Director Tom O'Loughlin reviewed the memorandum, entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

46. Resolution of the Council, re: Award of Contract – RI-LEAP Crest

Street.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

47. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: RI-LEAP Berkeley Avenue.

Public Works Director Tom O'Loughlin reviewed the memorandum, entered below and noted RI-LEAP is federal funding.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

48. Resolution of the Council, re: Award of Contract – RI-LEAP Berkeley Avenue.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

49. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Amendment: Engineering Services – Aquidneck Avenue Sewer Improvements.

Town Engineer Warren Hall reviewed the memorandum, entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

50. Resolution of the Council, re: Award of Contract Amendment - Engineering Services – Aquidneck Avenue Sewer Improvements.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

51. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: Sewer Improvements on Aquidneck Avenue.

Town Engineer Warren Hall noted his recommendation to award the contract to CB Utility.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

52. Resolution of the Council, re: Award of Contract – Sewer Improvements on Aquidneck Avenue.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

53. Memorandum of Town Administrator, re: Beach Facility Advisory Committee.

Acting Town Administrator Chief Anthony Pesare reviewed the memorandum, entered here:

On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said memorandum.

On motion of Vice President Long, duly seconded, it was voted unanimously to create a Beach Facility Advisory Committee as set forth in the memorandum entered above and direct the Town Clerk to advertise for community at large members.

BOARDS AND COMMITTEES

54. Appointment of two (2) members to the Conservation Commission for a terms expiring July 2015.

On motion of Vice President Long, duly seconded, it was voted unanimously to reappoint Paul M. Barrow and Peter Tarpgaard to the Conservation Commission for terms expiring July 2015.

On motion of Vice President Long, duly seconded, it was voted unanimously to adjourn said meeting at 7:50 pm.

Wendy J.W. Marshall, CMC

Council Clerk

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